

STATE OF MICHIGAN
COURT OF APPEALS

In re ADAMS Estate.

KAREN ASH, Personal Representative for the
Estate of RONALD L. ADAMS,

Petitioner-Appellee,

v

LORRAINE B. ADAMS,

Respondent-Appellant.

UNPUBLISHED
September 16, 2014

No. 316540
Osceola Probate Court
LC No. 11-000081-DA

Before: MURRAY, P.J., and DONOFRIO and BORRELLO, JJ.

PER CURIAM.

This estate dispute is back before this Court after remand to the Osceola Probate Court. Appellant Lorraine B. Adams appeals as of right from an opinion and order of the probate court requiring her to deliver the proceeds from the decedent's (Ronald L. Adams, appellant's husband) life insurance policy to appellee. Appellant and decedent were legally separated at the time of his death. We affirm.

Appellant and the decedent designated each other as beneficiaries on their respective life insurance policies. Prior to the decedent's death, he and appellant entered into a consent judgment of separate maintenance, wherein they agreed to – amongst other things – extinguish their respective rights to any proceeds from each other's policies. In a prior appeal¹ we affirmed the trial court on appellant's challenge to decedent's will, but remanded the case for the trial court to consider whether the decedent and appellant entered into an agreement subsequent to the consent judgment to remain each other's beneficiaries on their life insurance policies, notwithstanding their prior waiver. Following a bench trial, the court found that appellant failed to meet her burden of proving the existence of the purported agreement.

¹ *In re Estate of Ronald L. Adams*, unpublished opinion per curiam of the Court of Appeals, issued October 23, 2012 (Docket No. 307033).

On appeal, appellant argues that the court's factual findings were clearly erroneous.

We review a probate court's factual findings under the "clearly erroneous" standard. "A finding is clearly erroneous when a reviewing court is left with a definite and firm conviction that a mistake has been made, even if there is evidence to support the finding." We review de novo issues of statutory interpretation. [*In re Townsend Conservatorship*, 293 Mich App 182, 186; 809 NW2d 424 (2011) (citations omitted).]

Moreover, even if a court's findings are clearly erroneous, "an error in a ruling or order . . . is not ground for [reversal] . . . unless refusal to take this action appears to the court inconsistent with substantial justice." MCR 2.613(A).

When reviewing a court's factual findings, "regard shall be given to the special opportunity of the trial court to judge the credibility of those witnesses who appeared before it." MCR 2.613(C). Appellate courts must give deference to credibility determinations made by the trier of fact because it "has the advantage of being able to consider the demeanor of the witnesses in determining how much weight and credibility to accord their testimony." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court had the opportunity to examine appellant's demeanor at trial, and expressly found it to be confusing and contradictory. It also noted that appellant's acknowledgment to giving deceptive or incomplete testimony during a prior proceeding, coupled with her threats to deplete the estate, impaired her credibility in the instant proceeding.

Moreover, the court found appellee's witnesses—Karen Ash (the decedent's daughter and personal representative of the decedent's estate), Debra Mathis (the decedent's cousin), and David Wooster (a close friend of the decedent)—more credible than appellant. The court noted that they were disinterested parties who had no reason to lie.² They testified that they never saw any indication of the alleged agreement between appellant and the decedent. Notably, Wooster testified that the decedent wanted to have no further relationship with appellant, while Mathis and Ash both noted that they overheard appellant threatening to deplete the estate after the decedent changed his will. Because the court reasonably found these witnesses to be more credible than appellant, the court did not clearly err in finding that the trial testimony failed to prove the existence of the purported agreement.

Appellant also argues that the court erred by failing to address, and thus disregarded, the documentary evidence establishing that she and the decedent entered into the purported agreement, as shown through their course of conduct. But the court was neither required to address each piece of evidence in making its decision, nor to ascribe certain weight to that

² Although Wooster received a truck as a gift as part of the estate, there was no indication that the decedent gifted him any portion of the estate that would be affected by the court's decision to include or exclude the policy proceeds from the estate.

evidence. “Brief, definite, and pertinent findings and conclusions on the contested matters are sufficient, without overelaboration of detail or particularization of facts.” MCR 2.517(A)(2).

In any event, the court’s opinion addressed all of the relevant evidence. It simply interpreted it differently than suggested by appellant. At trial, appellant submitted documentation establishing that the decedent continued making payments on her life insurance policies, as well as evidence showing that neither appellant nor the decedent changed their designated beneficiaries in their life insurance policies. This evidence does not conclusively establish a course of conduct between appellant and the decedent evincing the intent to create the purported agreement. The court found it more reasonable that the decedent was making payments on appellant’s policies out of relationship “inertia.” This is entirely reasonable, given appellant’s testimony that she lived with the decedent for approximately 40 years. The court also reasonably found that the decedent did not change his policy because there was no reason to do so, as appellant no longer had any right to the proceeds after the court entered the consent judgment of separate maintenance. This is a perfectly reasonable interpretation of the evidence, and not one in which we are left with a definite and firm conviction that a mistake was made. Thus, the court’s findings were not clearly erroneous.

Affirmed.

/s/ Christopher M. Murray
/s/ Pat M. Donofrio
/s/ Stephen L. Borrello